

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

VILMA SERRALTA,

Plaintiff,

v.

SAKHAWAT KHAN; ROOMY KHAN; and DOES
ONE through TEN inclusive,

Defendants.

No. C 08-1427 CW

ORDER DENYING
PLAINTIFFS' MOTION
FOR ENTRY OF DEFAULT
JUDGMENT

Plaintiffs have moved for default judgment as a sanction for what appears to be the fabrication of a significant piece of documentary evidence by Defendants, or, at best, by their employee. The Court, having considered oral argument and all of the papers submitted, denies the motion for entry of default judgment. However, the Court will give the jury a strongly worded instruction about the inference of culpability that must be drawn from fabrication of evidence, which Plaintiffs may draft. Plaintiffs may move for any attorneys' fees incurred in investigating and moving for relief regarding this document. Further, the Court will not allow Defendants to submit any evidence rebutting Plaintiffs' evidence about the fabrication of this document, unless the Court

1 has first screened any such proposed evidence. Accordingly, on the
2 first day of trial, at 8:30 a.m., while the jury is gathering,
3 Defendants must present at an evidentiary hearing any evidence they
4 propose to offer to rebut Plaintiffs' evidence. The Court will
5 hear it and determine whether to allow Defendants to present it to
6 the jury during trial. No such rebuttal evidence that is not
7 proffered for screening at that time will be allowed.

8 IT IS SO ORDERED.

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10 Dated: 8/28/09



11 CLAUDIA WILKEN
12 United States District Judge
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